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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,256	05/11/2001	Anthony Robert Buckley	3-1-2	7897

7590
Synnestvedt & Lechner
2600 Aramark Tower
1101 Market Street
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04/09/2007

EXAMINER

TRAN, TUAN A

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/854,256

Applicant(s)

BUCKLEY ET AL.

Examiner

Tuan A. Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6 and 15-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Yasuda et al (4,558,178).

Regarding claim 1, Yasuda discloses a mobile station for a mobile communications system (See fig. 3) comprising: a handset; a headset 33 for connection to the handset; the handset including a transceiver 46 for transmitting an outgoing call and receiving an incoming call, a processor 45 coupled to the transceiver 46 for providing audio signals on a first audio path to a first audio transducer in the handset and on a second audio path to a second audio transducer in the headset 33; and a single first user operable switch (a **SEND** key on a keypad 43) disposed in the handset, the single switch configured such that the operation thereof has effect both of initiating and/or accepting a call, and of routing audio signals to the audio path corresponding to the handset regardless of whether the headset 190 is connected to the handset and regardless of the condition of any other switch of the mobile station(See fig. 3-4 and col. 6 lines 1-57).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-6 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasuda (4,558,178) in view of Kim et al. (6,397,087).

Regarding claims 1, 3 and 5-6, Yasuda discloses a mobile station for a mobile communications system (See fig. 3) comprising: a handset; a headset 33 for connection to the handset; the handset including a transceiver 46 for transmitting an outgoing call and receiving an incoming call, a processor 45 coupled to the transceiver 46 for providing audio signals on a first audio path to a first audio transducer in the handset and on a second audio path to a second audio transducer in the headset 33; and a single first user operable switch (a **SEND** key on a keypad 43) disposed in the handset, the single switch configured such that the operation thereof has effect both of initiating and/or accepting a call, and of routing audio signals to the audio path corresponding to the handset regardless of whether the headset 190 is connected to the handset and regardless of the condition of any other switch of the mobile station (See fig. 3-4 and col. 6 lines 1-57). However, Yasuda does not mention the headset with a second switch,

wherein the second switch is configured to initiate and/or accept, terminate a call, and rout it on the second audio path and wherein the operation of the second switch following the operation of the first switch is effective to select the other of the selected one of the first and second audio paths, when the headset is connected to the handset. Kim teaches a headset with a second switch (On/Off switch), wherein the second switch is configured to initiate and/or accept, terminate a call, and rout it on the second audio path and wherein the operation of the second switch following the operation of the first switch is effective to select the other of the selected one of the first and second audio paths, when the headset is connected to the handset (See figs. 7-8 and col. 5 lines 33-49, col. 7 lines 2-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the headset as disclosed by Kim for the advantage of allowing the user to conduct a call in private-mode.

Claims 15-19 are rejected for the same reasons as set forth in claims 1, 3 and 5-6, as method.

Regarding claim 2, Yasuda & Kim disclose as cited in claim 1. Yasuda and Kim further disclose the transducer means in the handset and the headset each comprises a microphone and a speaker respectively (See Yasuda fig. 3 and Kim fig. 7). Yasuda further discloses the handset comprises a loudspeaker 31 (See fig. 3).

3. Claims 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasuda (4,558,178) in view of Kim et al. (6,397,087) as applied to claim 15 above, and further in view of Bowen et al. (5,224,151).

Regarding claims 20-24, Yasuda & Kim disclose as cited in claim 15. However, they do not mention that the first switch is operated automatically via detection of use of the handset wherein the step of automatically detecting comprises detecting proximity of the handset to a user's head via capacitance change or infrared sensing or acoustic impedance sensing or tension in a headband. Bowen teaches a handset comprises sensor for detecting proximity of the handset to a user's head via capacitance change or infrared sensing or acoustic impedance sensing to switch the handset between a loudspeaker mode (hand-free mode) and a handset mode (See figs. 1-4 and col. 2 line 10 to col. 3 line 7). Since tension sensor, Official Notice has been taken, is well known in the art as well as the headband of the handset; therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Bowen in modifying the handset as disclosed by Yasuda & Kim or the headband by adding to it infrared proximity sensor or capacitance proximity sensor or acoustic impedance proximity sensor or tension sensor for the advantage of automatically switching the handset between the hand-free mode (with the headset) and handset mode depending on the location of the handset relative to the user's ear.

Response to Arguments

Applicant's arguments, see Remark, page 7-10, filed 01/10/2007, with respect to the rejection(s) of claim(s) under Gong (6,301,491) in view of Kim (6,397,087) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

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However, upon further consideration, a new ground(s) of rejection is made in view of Yasuda (4,558,178) in view of Kim (6,397,087).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Tran whose telephone number is (571) 272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Tuan Tran
AU 2618